

Application No. 10/554,451
Paper Dated: August 18, 2010
In Reply to USPTO Correspondence of May 19, 2010
Attorney Docket No. 4456-053195

REMARKS

The Office Action of May 19, 2010 has been reviewed and the Examiner's comments carefully considered. Applicants hereby elect Group I, claims 1-3, 8, 15, 18, 19, 28, 36, 37, 48-51, and 54, drawn to an apparatus for removing impurities, and Species A represented by Figs. 1-6, with traverse.

First, with respect to the traversal of the restriction between Groups I and II, Applicants assert the following. In connection with restriction practice, MPEP § 803 states “[i]f the search and examination of an entire application can be made without serious burden the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions [e.g., common special technical feature]...” (emphasis added). The Applicants respectfully traverse this Restriction Requirement on the grounds that no serious burden exists on the Examiner by examining the claims of Groups I and II in a single application. When searching and examining the Group I claims (i.e., an apparatus for removing impurities), the Examiner will also encounter subject matter set forth in the claims of Group II (i.e., a method for removing impurities). Therefore, a separate search would not be required. In view of the above, no serious burden exists on the Examiner by examining the claims of Groups I and II in a single application. Accordingly, withdrawal of the Restriction Requirement between Groups I and II is respectfully requested.

The restriction requirement between Species A and B is respectfully traversed for at least the following reasons. First, Applicants believe that no serious burden exists on the Examiner by examining the claims of Species A and Species B in a single application. When searching and examining the Species A claims, the Examiner will also encounter subject matter set forth in the claims of Species B claims. Therefore, a separate search would not be required. This is further supported by the restriction between Groups I and II, since Group I includes all of the apparatus claims describing the embodiments of the invention illustrated in Figs. 1-8. Still further, Fig. 1 represents a schematic view of the invention, which is common to the preferred and non-limiting embodiments shown in Figs. 2-8.

Furthermore, MPEP §803 states “Examiners must provide reasons and/or examples to...support the restriction requirement....” In the present Office Action, the Examiner

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imposes this species restriction requirement without providing the required reasons and/or examples in support thereof. In fact, the Examiner does not provide a single reason or example in support of the restriction requirement. Instead, the Examiner merely states that “[t]he species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.” Accordingly, the Examiner has not fulfilled the requirement of the United States Patent and Trademark Office set forth in MPEP § 803 of providing reasons and/or examples to support the restriction requirement. Therefore, withdrawal of the Restriction Requirement between Species A and B is respectfully requested.

In view of the above remarks, withdrawal of the restriction requirement is respectfully requested. Applicants make this election without prejudice to the later filing of a divisional application directed to the non-elected claims. Should the Examiner have any questions or concerns, the Examiner is invited to contact the Applicants’ undersigned representative by telephone at 412-471-8815.

Respectfully submitted,
THE WEBB LAW FIRM

By _____ 
Nathan J. Prepelka
Registration No. 43,016
Attorney for Applicants
436 Seventh Avenue
700 Koppers Building
Pittsburgh, PA 15219
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com